

Response To Examiner's Answer

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Dated: July 16, 2009

Electronic Signature for Christine M. Holmes: /Christine M. Holmes/

Docket No.: 1323_001RCE
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
W. P. Dowst et al.

Application No.: 10/603,947

Confirmation No.: 3129

Filed: June 25, 2003

Art Unit: 3749

For: HEATING VESSEL

Examiner: C. D. Price

RESPONSE TO EXAMINER'S ANSWER

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

This is in response to the Examiner's Answer mailed June 9, 2009 in respect to the subject application.

In respect to the Examiner's Answer regarding the 35 U.S.C. 112 rejections, the appellants wish to provide the following further comments for consideration.

In respect to the recited "external bottom end of said vessel" in lines 6 and 7 of claim 151, the appellants respectfully point out that there is recited "a vessel... having... a thermal conductive bottom end and a top end...". Thus the vessel is clearly defined as having top and bottom ends. Claim 151 goes on to recite "a top housing having a top rim coupled circumferentially to the external bottom end of said vessel...". It should therefore be clearly understood that the relationship between the top rim and the bottom end of the vessel is clearly defined in that the top rim is coupled circumferentially to the bottom end of the vessel. The inclusion of the word "external" further defines that relationship to mean that the top rim is coupled circumferentially to an external side of the bottom end of said vessel. Thus, the recitations leave little doubt as to their meanings.

In respect to claim 152, the recitation of “its top rim” in line 3 is considered by the Examiner to provide insufficient antecedent basis since “the claim includes two previously recitations of “top rim”. In this regard, claim 151, on which claim 152 is dependent, there is recited “a top housing having a top rim...” and “a bottom housing having a top rim”. Claim 152 then further qualifies claim 151 by reciting “wherein said bottom housing is so configured and sized as to be temporarily contained within said vessel cavity in an upright position with its top rim facing said vessel top end”. Thus, it will be seen that claim 152 refers only to the bottom housing and not to the top housing. Thus, the recitation “with its top rim” can only reasonably be considered to be referring to the bottom housing top rim and not the top housing top rim. For these reasons, the appellants submit that a proper and sufficient antecedent basis is provided for “its top rim”.

Further with respect to claim 152, the Examiner continues to argue that “the meaning of the bottom housing “top rim” being orientated such that it is “facing” said vessel top end” is vague and indefinite. In this regard, as discussed hereinabove, the bottom housing top rim is clearly defined as recited in claims 151 and 152. Further, the vessel top end is clearly defined as recited in claim 151. Finally, claim 152 recites the relationship between those two elements wherein it is recited that the bottom housing top rim is “facing said vessel top end”. The meaning of the word “facing” is clear and definite. The appellants therefore submit that the claim is clear and definite in its nature.

In respect to Ground 2, the Examiner persists in his rejection of claims 151-152 under 35 U.S.C. 103(b) as being anticipated by Goerl. In this regard, he “maintains the position that the entirety of the vessel (13) lower surface sections (31,32,33) are the structurally and functionally the same as appellant’s broadly claimed “a thermally conductive bottom end”. With this position, the appellants respectfully and strongly disagree. Claim 151 recites “a vessel... having... a thermal conductive bottom end and a top end...”. The meaning of the word “end” is clear and definite as discussed in the appellant’s Appeal Brief. To briefly reiterate, it means an extremity. That is, what is claimed is a top extremity and a bottom extremity. Thus, if the Goerl reference is

applied, the bottom end of the vessel 13 is an extremity as shown at 31, and the top end would be the top extremity (unnumbered) of that vessel. The surfaces 32 and 33 are clearly at intermediate positions between those two extremities. The recited “thermally conductive bottom end” can thus be reasonably be met by the bottom side 31, but the surfaces 32 and 33 are clearly not a part of the thermally conductive bottom end as proposed by the Examiner. Even though the surfaces 32 and 33 can be considered to be “an external bottom side for receiving heat”, they are not part of the bottom end as suggested by the Examiner.

Further in respect to the rejection of claim 152, the Examiner contends that with respect to the Goerl reference “when placed within the vessel in such an inverted (relative to Figure 4) orientation the bottom rim of the bottom housing would rest on the inclined or sloped portion (33) of the vessel. The bottom housing would therefore nevertheless be stored or positioned within the vessel. It is important to note that appellants claim merely requires the bottom housing can be placed in the vessel cavity in an upright position. This limitation does not require the bottom housing to be fully placed in or confined within the vessel”. The appellants respectfully disagree.

It should be noted that claim 152 does not merely recite the placement of the bottom housing in the vessel cavity, but rather that it be “contained (underling added) within said vessel cavity”. Thus, the recited claim does, indeed, require the bottom housing to be fully placed and/or confined within the vessel. Clearly the Goerl reference does not show or suggest this feature.

In respect to Ground 4, the Examiner relies on the combination of the features of DE 3339848 with those of Goerl and Horner. The Examiner indicates that he does not agree with appellants representation of the teaching of DE 3339848, but does not indicate how he disagrees with that characterization. Accordingly, the appellants would further point out that although that reference may be considered to read on the recited features of “a burner having a heat outlet head disposed centrally below a bottom end planar surface of the vessel (i.e. inner vessel 1)... the heat outlet being generally round in form and having a fixed diameter and being configured to deliver heat to a central

area of the surface”, it clearly does not read on the further recited “single thermally conductive member comprising a continuous piece of material fixedly attached to and positioned adjacent to and extending continuously along the entire extent of a peripheral edge of the surface...”. That is, the coil 12 is placed on the inner side of the outer vessel 2 rather than being attached to the bottom end planar surface of the vessel 1. For that reason, the coil 12 serves an entirely different purpose than the conductive member of the present invention. Accordingly, that feature would not be obviously combinable with the features of the other two references to result in the appellants invention as suggested by the Examiner.

For the above reasons and those previously presented by the appellants, the appellants believe that the claims are patentably distinctive over the cited references taken individually and in combination. The appellants therefore request that the Examiners rejections to the claims be reversed and the claims be allowed to issue.

Appellant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0289, under Order No. 1323_001RCE from which the undersigned is authorized to draw.

Dated: July 16, 2009

Respectfully submitted,

Electronic signature: /Dana F. Bigelow/
Dana F. Bigelow
Registration No.: 26,441
MARJAMA MULDOON BLASIAK &
SULLIVAN LLP
250 South Clinton Street
Suite 300
Syracuse, New York 13202
(315) 425-9000
Customer No.: 20874